

**THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
DIVISION OF SAN FRANCISCO**

TAMARA DOUKAS, an individual,  
  
Plaintiff,  
  
v.  
  
COUNTY OF SAN MATEO, a public  
entity, PENINSULA HUMANE  
SOCIETY, a private non-profit  
organization, DEBI DENARDI, an  
individual, KIM HADDAD, an individual,  
KKH INC., a private entity, SPIKE REAL  
STATE, a private entity, and DOES 1  
through 50, inclusive,  
  
Defendants.

No. CV-02336-SI

**DEFENDANT KIM HADDAD, KKH, INC.  
& SPIKE REAL ESTATE'S SEPARATE  
CASE MANAGEMENT CONFERENCE  
STATEMENT**

Complaint Filed: May 6, 2008

Defendants DR. KIM HADDAD, KKH, INC. and SPIKE REAL ESTATE (hereinafter, “Dr. Haddad”) respectfully submit their Joint CMC Statement in accordance with the Standing Order for All Judges of the Northern District of California. Dr. Haddad is represented by Peter J. Van Zandt, Esq. and Brian S. Whittemore, Esq. of Bledsoe, Cathcart, Diestel, Pederson & Treppa LLP.

Plaintiff TAMMY DOUKAS is represented by Dan Berko, Esq.

Defendants COUNTY OF SAN MATEO, PENINSULA HUMANE SOCIETY and DEBI

1 DENARDI are represented by Charles S. Custer, Esq. and Jon Yonemitsu, Esq. of Gordon &  
2 Rees, LLP.

3 Defendants PENINSULA HUMAN SOCIETY and DEBI DENARDI are also  
4 represented by Kevin Smith, Esq., of Bradley, Curley, Asiano, Barrabee & Crawford, P.C. and  
5 Dwight B. Bishop, Esq., of Dwight B. Bishop, Inc.

6 1. Jurisdiction: Plaintiff's complaint does not include a jurisdictional statement  
7 identifying the statutory or other basis for federal jurisdiction and facts supporting such  
8 jurisdiction as required by Civil Local Rule 3-5. In the body of the Complaint; however,  
9 Plaintiff alleges, among other things, violation of the Fourth Amendment to the United States  
10 Constitution and violation of 42 U.S.C. 1983 relating to the euthanization of her pet dog

11 2. Facts:

12 *Plaintiff's Position*: Counsel for Dr. Haddad circulated a draft Joint CMC Statement  
13 form in an effort to obtain plaintiff's position but received no response.

14  
15 *Defendant Dr. Haddad's Position*: Dr. Haddad believes that her professional reputation,  
16 and that of her animal hospital, has been unfairly tainted by this lawsuit. She has a well  
17 established reputation as a supporter of animal rights in the community and devotes substantial  
18 time and energy to the care and human treatment of animals. On the date of the incident  
19 underlying the claims in this case, at least two veterinarians examined Kodiak and concluded,  
20 based on their professional experience and judgment, that the dog was gravely ill with a very grave  
21 prognosis. Dr. Ulla first examined plaintiff's dog. At that time, plaintiff informed Dr. Ulla that the  
22 dog couldn't walk the night before and plaintiff slept outside with him. Thereafter, the dog was  
23 given IV fluids and antibiotics. Dr. Ulla and Dr. Haddad, the two veterinarians on duty that day,  
24 observed that Kodiak appeared to be in shock, had bloody stool, and an open abscess wound from a  
25 foxtail that plaintiff hadn't removed. In addition, the dog had a fever, exuded a foul odor, and was  
26 vocalizing as if in pain. These symptoms were first observed by Dr. Ulla who asked Dr. Haddad to  
27 further examine Kodiak in an attempt to gain a second opinion. Upon further examination, Dr.  
28 Haddad reached the same conclusion—that Kodiak was gravely ill, continued to suffer and actually

1 appeared to be dying. Plaintiff, however, maintained that her dog was fine as of 12:30 pm that day,  
2 even after indicating otherwise in earlier statements. For example, she previously revealed that the  
3 dog had difficulty breathing, was not walking, had diarrhea and was vomiting, and that she slept  
4 outside with him the night before because he was not doing well, and could not get up.

5 Each veterinarian, as well as the animal control officer, had a duty to prevent animal cruelty.  
6 It became clear to both veterinarians that plaintiff was unable to grasp the severity of her pet's  
7 medical condition. Under the circumstances, allowing the failing dog to leave the San Mateo  
8 Animal Hospital with plaintiff would have subjected Kodiak to needless suffering, in clear violation  
9 of the law—and tantamount to animal cruelty. Moreover, it was Dr. Haddad's duty, under the  
10 circumstances, to alert appropriate animal control officials of the dog's condition so as to prevent the  
11 animal's needless suffering. She did just that in accordance with her ethical obligations.

12 After assessing the situation, Officer Denardi independently concluded that the dog was  
13 suffering and to allow him to continue suffering would be inhumane. As a result, Officer Denardi  
14 ultimately informed plaintiff that she could not allow the dog to continue to lay on the examination  
15 room floor in pain and that if a decision wasn't made regarding euthanasia, she would seize the dog  
16 under Penal Code section 597 and bring the dog to Peninsula Humane Society and SPCA where he  
17 would be examined by a staff veterinarian and potentially humanely euthanized.

18 At 5:30 p.m., Officer Denardi entered the treatment room and learned that plaintiff and her  
19 family had not reached a decision regarding euthanasia. As a result, Officer Denardi began issuing  
20 post-seizure paperwork and told the family that the dog was to be transported to PHS/SPCA.  
21 Although plaintiff now denies that she or her family gave consent to euthanize Kodiak, Dr. Haddad  
22 contends that consent was in fact given and Kodiak was euthanized after consent was obtained.

23  
24 *Defendant County of San Mateo's Peninsula Humane Society and Debi Denardi's Position:*  
25 Defendant Dr. Haddad, after speaking with defense counsel for the County of San Mateo,  
26 understands that the County will be filing a Separate CMC Statement on behalf of their clients.  
27  
28

*Defendants Peninsula Humane Society and Debi Denardi's Position:*3. Legal Issues:

Whether plaintiff can recover emotional distress damages for loss of personal property and whether consent was, in fact, given for the euthanization. Potential issues may also include whether State Action was involved in the seizure of the dog and whether Dr. Haddad was so closely connected with the State Actor as to justify her inclusion in plaintiff's "Deprivation of Rights" claim.

4. Motions: Possible Motion for Summary Judgement. There are no pending motions at this time.

5. Amendment of Pleadings: No amendments expected at this time.

6. Evidence Preservation: All relevant x-rays and medical records of Kodiak have been previously produced in the state court action and preserved.

7. Disclosures: Due to the fact that initial disclosures are due the same day as this filing, counsel for Dr. Haddad is uncertain whether other parties will comply with the initial disclosure deadline. Counsel for Dr. Haddad has attached its timely initial disclosures as **Exhibit A**, to the Declaration of Brian S. Whittemore.

8. Discovery: Significant discovery related to the federal action has already occurred in the underlying state court action. However, to date, parties have not stipulated that the discovery be applicable to both actions. Defendant KIM HADDAD will endeavor to discover any records indicating treatment of plaintiff's dog prior to its euthanasia to substantiate our contention that the dog was indeed suffering and properly euthanized.

The Parties Propose the following Discovery Plan:

<u>Discovery</u>	<u>Party</u>	<u>Date</u>
<u>Written Discovery:</u>		
Interrogatories to Plaintiff	Dr. Haddad	September 2008
Document Requests	Dr. Haddad	September 2008

## Depositions

Deposition of Plaintiff Dr. Haddad November 2008

Deposition of Witnesses Dr. Haddad November 2008

9. Class Actions: Not Applicable.

10. Related Cases: There is currently a related state Court Case in the San Mateo County Superior Court, Case No. 461009.

11. Relief: Plaintiff seeks unspecified damages relating to the loss of her dog (property) and the resulting emotional distress damages.

Defendants contend relief, if any, should be limited to the value of her dog.

12. Settlement and ADR: The parties have stipulated to participation in the federal court's mediation program. However, Dr. Haddad has been unable to obtain signatures to the stipulation in a timely fashion and has thus filed the ADR telephone conference form. (See Declaration of Brian S. Whittemore

13. Consent to Magistrate Judge For All Purposes: Defendants HADDAD will stipulate to trial by a Magistrate Judge.

14. Other References: None.

15. Narrowing of Issues: Defendant Dr. Haddad is unable to provide guidance to the court with regard to narrowing the issues.

16. Expedited Schedule: Not applicable.

17. Scheduling:

## Action

Proposed Date

### Designation of Experts:

June 2009

Discovery Cutoff:

July 2009

Hearing of Dispositive Motions:

July 2009

Pretrial Conference:

August 2009

**Trial:**

August 2009

18. Trial: Defendant Dr. Haddad demands a jury trial and anticipates a 5-7 day trial.

20. Other Matters: None at this time.

**BLED SOE, CATHCART, DIESTEL,  
PEDERSEN & TREPPA, LLP**

By \_\_\_\_\_ /s/  
Peter J. Van Zandt  
Brian S. Whittemore  
Attorneys for Defendants  
**KIM HADDAD, KKH INC., SPIKE  
REAL STATE**